

# COUNTY OF YORK

## MEMORANDUM

**DATE:** December 13, 2002 (BOS Mtg.1/21/03)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Application No. UP-611-03, Deanna and Dwight Newingham

### **ISSUE**

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 3, No. 2) of the Zoning Ordinance, to authorize a real estate office as a home occupation within a single-family detached dwelling located at 218 Ryans Way and further identified as Assessor's Parcel No. 30-77-1.

### **DESCRIPTION**

- ? Property Owner: Deanna L. and Dwight S. Newingham
- ? Location: 218 Ryans Way
- ? Area: 2.07 acres
- ? Frontage: Approximately 250 feet on Ryans Way.
- ? Utilities: The property is currently served by a well and septic system.
- ? Topography: Flat
- ? 2015 Land Use Map Designation: Low Density Residential
- ? Zoning Classification: RR – Rural Residential
- ? Existing Development: Single-family detached residence
- ? Surrounding Development:
  - North: Single-family detached residence
  - East: Single-family detached residence
  - South: Vacant lot
  - West: Single-family detached residence
- ? Proposed Development: Establishment of a real estate office as a home occupation in an existing single-family residence to include one non-resident employee and on-site customer contact.

### **CONSIDERATIONS/CONCLUSIONS**

1. The applicants are proposing to use 492 square feet of their existing 3200-square foot home as an office for a family-owned and -operated real estate office (Lotz Realty). Section 24.1-282(7) of the Zoning Ordinance states that home office facilities for real estate agents are permitted as a matter of right provided that there is no on-premises customer/client contact. Because the applicant plans to have on-premises customer/client contact, a Special Use Permit is required. In addition, the applicant proposes to have one (1) non-resident employee; this too requires a use permit.
2. The Comprehensive Plan designates this area as Low Density Residential, and the property is zoned RR (Rural Residential). The surrounding area is residential in nature. To the northeast of the property lies the Poquoson River, and to the east and west are single-family residences. A vacant 4.6-acre lot is just south of the applicant's property. Lotz Realty owns this parcel and plans to develop it and the 9.2-acre parcel across Ryans Way as a 12-lot subdivision to be known as Tidemill Estates, Section 4.
3. Sections 24.1-281, 24.1-282, and 24.1-283 of the Zoning Ordinance address performance standards relating to home occupations, with the intent being to limit the size, scale, and visibility of home occupations in order to ensure that they remain incidental and subordinate to the residential use of the property and to prevent adverse impacts or change the residential character of the home or neighborhood. No changes to the outside appearance of the residence will be made and, as with all home occupations, no signs will be permitted. In addition, the Zoning Ordinance states that home occupations can occupy no more than 25% of the floor area of the residence or 400 square feet, whichever is less, unless a greater area is deemed appropriate. The applicant is proposing to use two (2) rooms of the 3200-square foot home totaling 492 square feet in area (15% of the total floor area of the home). Although the applicant is proposing to exceed the 400 square foot maximum, both the house and the lot are large enough to accommodate the additional square footage requested by the applicant with no adverse impacts on the surrounding area. Furthermore, an additional 92 square feet is not likely to change the intensity of use.
4. Although the proposed hours of operation are from 9:00 AM to 5:00 PM, Monday through Friday, the applicant estimates that there would be no more than 2-3 clients at the home in any given week. The applicant has proposed these hours of operation in order to give her flexibility in scheduling appointments. These hours are less extensive than the Zoning Ordinance provides for as a matter of right (8:00 AM to 8:00 PM, Monday through Saturday).
5. As part of this application, the applicant is proposing to have one (1) non-resident employee, who is the applicant's brother and resides directly across the street from the subject property. Pursuant to Section 24.1-283(e) of the Zoning Ordinance, home occupations with non-resident employees, (for which a use permit is required) are limited to a term of two years unless the Board sets some other time limit, either lesser or greater. Since this is a family business and the employee lives across the street from the

home occupation, staff feels that it would be appropriate to consider a longer term limit, such as five years, after which the applicant would be able to apply for a new use permit.

6. The subject parcel is able to accommodate parking for a small-scale home occupation as proposed. The driveway and turnaround, measuring an estimated 340 feet in length and 12 feet in width, lead to the residents' two-car garage and a parking area measuring approximately 50 ft. x 30 ft. With this existing area, the required parking accommodations, including those required for both the residence (two spaces) and the proposed real estate sales office (one space), would easily be met.
7. An additional concern is the ability to properly identify and locate the applicant's house. In order to guard against possible future confusion from clients as to the location of the residence and office, it is recommended that the applicants be required to conform more accurately to the County Code Article III, Section 20-35(a)&(b) regarding the display of street address numbers.

#### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered this application at its regular meeting on December 11, 2002 and, subsequent to conducting a public hearing at which both Mr. and Mrs. Newingham spoke, voted 4:1 (Mrs. White dissenting and Mr. Barba absent) to recommend approval. In doing so, the Commission recommended the standard two (2) year expiration date for the non-resident employee authorization. The Commission took this action primarily because of concern that the on-site customer/client contact would create a potential for additional traffic on Ryans Way. The 2-year term limit would give the Commission and Board an opportunity to re-evaluate the non-resident employee authorization and any associated traffic impact on the surrounding lots, which are likely to be developed by then. Staff understands this concern but continues to believe that extending that limit to five years would be appropriate if the Board wishes to do so.

#### **COUNTY ADMINISTRATOR RECOMMENDATION**

The proposed home occupation is a small-scale operation and will not have any adverse impacts on the surrounding area or the residential character of the neighborhood. I am confident that the proposed conditions limiting the office to one non-resident employee and restricting the hours of operation are sufficient to ensure that the real estate office remains a small-scale operation, consistent with the intent of the home occupation provisions of the Zoning Ordinance. Therefore, based on the considerations outlined above, I recommend that the Board approve this application subject to the conditions contained in proposed Resolution No. R03-4.

Carter/3337

Attachments:

- ? Excerpts of Planning Commission Minutes, December 11, 2002
- ? Zoning Map

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? Vicinity Map

? Sketch Plan

? Proposed Resolution No. R03-4